101-503

SENECA NATION SETTLEMENT ACT OF 1990

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Public Law 101-503
101st Congress

An Act

Nov. 3, 1990
[H.R. 5367]

To provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Seneca Nation Settlement Act of 1990.
New York.
25 USC 1774 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Seneca Nation Settlement Act of 1990".

25 USC 1774.

SEC. 2. FINDINGS AND PURPOSES.

(a) CITY OF SALAMANCA AND CONGRESSIONAL VILLAGES.—The Congress finds and declares that:

(1) Disputes concerning leases of tribal lands within the city of Salamanca and the congressional villages, New York, have strained relations between the Indian and non-Indian communities and have resulted in adverse economic impacts affecting both communities.

(2) Some of the significant historical events which have led to the present situation include—

(A) beginning in the mid-nineteenth century, several railroads obtained grants or leases of rights of way through the Allegany Reservation without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(B) after construction of these railroads, Allegany Reservation lands were leased to railroad employees, persons associated with the railroads, residents of the city and farmers without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(C) none of these leases had Federal authorization or approval and, after the courts ruled these leases invalid, Congress enacted the Act of February 19, 1875 (18 Stat. 330), confirming existing leases of Allegany Reservation lands, authorizing further leasing by the Seneca Nation, and making the confirmed leases renewable for a twelve year period;

(D) the Act of September 30, 1890 (26 Stat. 558), amended the 1875 Act by substituting a renewal term of "not exceeding ninety-nine years" for the original renewal term of twelve years; and

(E) in 1952 the Seneca Nation filed a claim with the Indian Claims Commission against the United States for use of improper lease fees, and in 1977 a settlement was reached regarding such claim, providing for the payment of $600,000 to the Seneca Nation covering the period beginning in 1870 to the end of 1946.

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(3) An analysis of historic land values indicates that the payments made under the original lease agreement and under the settlement described in paragraph (2)(E) were well below the actual lease value of the property.

(4) The approaching expiration of the Salamanca and congressional village leases on February 19, 1991, has created significant uncertainty and concern on the part of the city of Salamanca and Salamanca residents, and among the residents of the congressional villages, many of whose families have resided on leased lands for generations.

(5) The future economic success of the Seneca Nation, city, and congressional villages is tied to the securing of a future lease agreement.

(6) The Federal and State governments have agreed that there is a moral responsibility on the part of both governments to help secure a fair and equitable settlement for past inequities.

(b) PURPOSE.—It is the purpose of this Act—

(1) to effectuate and support the Agreement between the city and the Seneca Nation, and facilitate the negotiation of new leases with lessees in the congressional villages;

(2) to assist in resolving the past inequities involving the 1890 leases and to secure fair and equitable compensation for the Seneca Nation based on the impact of these leases on the economy and culture of the Seneca Nation;

(3) to provide a productive environment between the Seneca Nation and lessees for negotiating the leases provided for under the Agreement;

(4) to provide stability and security to the city and the congressional villages, their residents, and businesses;

(5) to promote the economic growth of the city and the congressional villages;

(6) to promote economic self-sufficiency for the Seneca Nation and its members;

(7) to promote cooperative economic and community development efforts on the part of the Seneca Nation and the city; and

(8) to avoid the potential legal liability on the part of the United States that could be a direct consequence of not reaching a settlement.

SEC. 3. DEFINITIONS. 25 USC 1774a.

For the purposes of this Act—

(1) the term "1890 lease" means a lease made by the Seneca Nation which is subject to—

(A) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved February 19, 1875 (chap. 90, 18 Stat. 330); and

(B) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved September 30, 1890 (chap. 1132, 26 Stat. 558);

(2) the term "Agreement" means the document executed by the Seneca Nation and the city entitled "Agreement between

the Seneca Nation of Indians and the City of Salamanca", including the appendix to the Agreement;

(3) the term "city" means the city of Salamanca, New York;

(4) the term "lessee" means the holder of an 1890 lease which either expires in 1991 or is one of the leases listed in document 1 of the Technical Documents, including any lessee who holds an 1890 lease by reason of assignment, inheritance, or other manner as provided by the Act referred to in paragraph (1)(A);

(5) the term "memorandum of understanding" means an agreement between the State and the Seneca Nation pertaining to the payment of the funds to be provided pursuant to this Act, which memorandum of understanding reflects an agreement between the Seneca Nation and the State concerning a mechanism and schedule of payments for the funds described in section 6(c);

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "Seneca Nation" means the Seneca Nation of Indians of the Allegany, Cattaraugus, and Oil Spring Reservations;

(8) the term "State" means the State of New York;

(9) the term "Technical Documents" means the documents which comprise the appendix to the Agreement; and

(10) the term "congressional villages" means the villages of Carrollton, Great Valley, and Vandalia in the State of New York.

25 USC 1774b.

SEC. 4. NEW LEASES AND EXTINGUISHMENT OF CLAIMS.

(a) NEW LEASES.—If the Seneca Nation offers new leases in accordance with the Agreement, this Act shall apply with respect to the Seneca Nation. The Seneca Nation shall supply copies of such leases to the Secretary and shall certify in writing that it has supplied the Secretary with copies of written offers to all lessees entitled to an offer.

(b) EXTINGUISHMENT OF CLAIMS.—The Seneca Nation shall execute appropriate documents relinquishing all claims against the United States, the State, the city, the congressional villages, and all prior lessees for payment of annual rents prior to February 20, 1991, with respect to all prior and existing leases.

(c) EFFECTIVE DATE OF LEASES AND RELINQUISHMENTS.—(1) The relinquishment of claims against the United States shall be effective upon payment by the United States to the Seneca Nation of the funds provided in section 6 of this Act.

(2) The offers, and any acceptances thereof, referred to in subsection (a), and the relinquishment of claims against the State, the city, the congressional villages, and all prior lessees for payment of annual rents referred to in subsection (b) shall not be binding on the Seneca Nation until after the later of the dates on which (1) Congress, or (2) the legislature of the State appropriates the amount of funds set forth in section 6 or the Seneca Nation and the State agree upon a schedule and mechanism for payments for funds pursuant to section 6(c). Such agreement shall render the offers, acceptances and the relinquishment effective so long as the payments are made as agreed upon by the Seneca Nation and the State.

SEC. 5. RESPONSIBILITIES AND RESTRICTIONS. 25 USC 1774c.

(a) SENECA NATION.—The Congress finds that the Seneca Nation is solely responsible for negotiation of the leases under the Agreement in its own interest and approval of any such lease by the United States is not required.

(b) LESSEES.—The Congress finds that—

(1) the lessees of leases with the Seneca Nation are responsible for representing their own interest in lease negotiations with the Seneca Nation; and

(2) nothing in this Act shall be construed to prevent the lessees from collectively negotiating with the Seneca Nation regarding such leases, whether through informal groups or as delegations formally sanctioned by either the State or local governments.

(c) UNITED STATES.—(1) The United States shall not serve in a capacity to approve leases of the Seneca Nation.

(2) Federal funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease, except for funds that may be available under a conventional, nationwide program.

(d) STATE.—(1) The State shall not serve in a capacity to approve leases of the Seneca Nation.

(2) State funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease.

SEC. 6. SETTLEMENT FUNDS. 25 USC 1774d.

(a) IN GENERAL.—In recognition of the findings and purposes specified in section 2, the settlement funds provided pursuant to this Act shall be provided by the United States and the State. The Secretary may not obligate or expend funds provided under subsection (b) until the Secretary determines that there is an agreed upon and signed memorandum of understanding.

(b) FUNDS PROVIDED BY UNITED STATES.—

(1) CASH PAYMENT.—The Secretary shall pay to the Seneca Nation the amount of $30,000,000, which is the Federal share of the cash payment to be managed, invested, and used by the Nation to further specific objectives of the Nation and its members, all as determined by the Nation in accordance with the Constitution and laws of the Nation.

(2) ECONOMIC DEVELOPMENT.—(A) In addition to the amount provided under paragraph (1), the Secretary shall pay to the Seneca Nation the amount of $5,000,000 to be used for the economic and community development of the Seneca Nation, including the city of Salamanca, which is an integral part of the Seneca Nation's Allegany Reservation. Such amount shall be deposited by the Secretary, administered, and disbursed in accordance with subparagraph (B).

(B)(i) The sum of $2,000,000 shall be deposited in a separate interest bearing account of the Seneca Nation. The account shall be administered, and the principal and interest thereon disbursed, by the Seneca Nation in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation. Until the principal is expended pursuant to such plan, the income accruing from such sum shall be disbursed to the treasurer of the Seneca Nation on a quarterly basis to fund tribal government operations and to provide for the general

welfare of the Seneca Nation and its members. The Seneca Nation may in its discretion add the accrued income to the principal.

(ii) The sum of $3,000,000 shall be deposited in an escrow account which shall be owned by the Seneca Nation. The escrow agent shall be selected by agreement of the Seneca Nation and the city. The escrow account shall remain in existence for a period of ten years from the date on which the principal is deposited or until all payments provided for under section V.D. of the Agreement have been made. The escrow account shall be held and disbursed for economic and community development as set forth in section V.D. of the Agreement. Upon the expiration of the ten-year period, the $3,000,000 principal shall be disbursed in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation.

(c) FUNDS TO BE PROVIDED BY THE STATE.—The State, in accordance with its laws and regulations, shall provide the sum of $16,000,000 in cash payments and $9,000,000 for economic or community development subject to the provisions of the memorandum of understanding.

(d) TIME OF PAYMENTS.—The payments required by this section on the part of the United States shall be made within 30 days of the Secretary's determination that the Seneca Nation has complied with section 4, or upon the availability of the amounts necessary to carry out this Act, if such determination has previously been made. If the Secretary determines that the Seneca Nation has not complied with section 4, he shall advise the Seneca Nation in writing of all steps it must take to comply.

(e) LIMITATION.—The only amounts available to carry out this Act shall be those amounts specifically appropriated by the Congress or the legislature of the State to carry out this Act.

25 USC 1774e.

SEC. 7. CONDITIONS PRECEDENT TO PAYMENT OF UNITED STATES AND STATE FUNDS.

Amounts may not be expended from—

(1) the $30,000,000 and the $5,000,000 provided by the United States under section 6(b), and

(2) the $16,000,000 and $9,000,000 provided by the State under section 6(c),

until after the authorized officials of the Seneca Nation execute new leases with all lessees who accept the Seneca Nation's offer of a new lease, as filed with the Secretary under section 4(a), and execute appropriate documents relinquishing all claims for payment of annual rents prior to February 20, 1991, with respect to such leases.

25 USC 1774f.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) LIENS AND FORFEITURES, ETC.—Subject to subsection (b), the provisions of section 7 of the Indian Tribal Judgment Funds Use and Distribution Act (25 U.S.C. 1407) shall apply to any payment of funds authorized to be appropriated under this Act and made to individual members of the Seneca Nation. None of the payments, funds, or distributions authorized, established, or directed by this Act, and none of the income derived therefrom, which may be received under this Act by the Seneca Nation or individual members of the Seneca Nation, shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or State or local taxation.

(b) ELIGIBILITY FOR GOVERNMENT PROGRAMS.—None of the payments, funds or distributions authorized, established, or directed by this Act, and none of the income derived therefrom, shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any Federal program.

(c) LAND ACQUISITION.—Land within its aboriginal area in the State or situated within or near proximity to former reservation land may be acquired by the Seneca Nation with funds appropriated pursuant to this Act. State and local governments shall have a period of 30 days after notification by the Secretary or the Seneca Nation of acquisition of, or intent to acquire such lands to comment on the impact of the removal of such lands from real property tax rolls of State political subdivisions. Unless the Secretary determines within 30 days after the comment period that such lands should not be subject to the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177), such lands shall be subject to the provisions of that Act and shall be held in restricted fee status by the Seneca Nation. Based on the proximity of the land acquired to the Seneca Nation's reservations, land acquired may become a part of and expand the boundaries of the Allegany Reservation, the Cattaraugus Reservation, or the Oil Spring Reservation in accordance with the procedures established by the Secretary for this purpose.

SEC. 9. LIMITATION OF ACTION. 25 USC 1774g.

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this Act shall be barred unless the action is filed on or before the date which is 180 days after the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the Western District of New York.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS. 25 USC 1774h.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved November 3, 1990.

LEGISLATIVE HISTORY—H.R. 5367 (S. 2895):

HOUSE REPORTS: No. 101-832 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-511 accompanying S. 2895 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 16, considered and passed Senate.

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